

REMARKS

Claim 7 has been amended. Claim 8 has been canceled without prejudice or disclaimer as to the subject matter recited therein. Claims 1-5, 7, 9-11, 13-15 remain pending in the case. Further examination and reconsideration of the presently claimed application are respectfully requested.

Allowable Subject Matter

Claims 1-5 were deemed allowed; claim 8 was deemed allowable if placed into independent form. Applicants appreciate the Examiner's indication of allowed and allowable subject matter. In response thereto, claim 7 has been amended to incorporate the allowable subject matter from claim 8. Accordingly, independent claims 1 and 7, as well as claims dependent therefrom, are now believed to be allowed.

Section 112 Rejection

Claims 7-11 and 13-15 were rejected under 35 U.S.C. § 112, second paragraph. Applicants respectfully traverse this rejection as to each of the listed claims.

With regard to claim 7, the Office Action alleges "the value of reference voltage VREF is shown in figure 3 to be independent from the circuit." Applicants disagree. As illustrated in Fig. 4, either circuit 40 or circuit 50 can be used to maintain a reference voltage between a positive and negative voltage peak (V_P and V_N) (Specification -- Fig. 4; pg. 11, lines 1-17). Thus, Applicants assert that VREF is indeed dependent from the circuit of Fig. 4, and relates to the circuit of Fig. 4 for maintaining itself at a particular voltage level.

With regard to claims 9-11, the Office Action alleges that the claimed circuit comprises a comparator and a pull down transistor. Applicants disagree. As stated above, the circuit which sets the reference voltage is separate and apart from comparator 30 and pull down transistor 26 shown in Fig. 3 (Specification -- Figs. 3-4). While the circuit sets the reference voltage, it is the combination of the comparator and pull down transistor, and the way in which those elements are connected, which changes the pulse width and duty cycle in response to changes in the reference voltage.

The Office Action further alleges the limitation “maintained at approximately a midline voltage between the positive and negative voltage peaks of the output” of claim 13 is misdescriptive. Apparently, the Examiner believes the output signal cannot drop below the reference voltage level. This simply is not true during initial start up. Certainly, over time, “comparator 30 output will settle at a relatively high voltage value for V_0 .” (Specification -- pg. 9, lines 21-22, emphasis added.) When comparator 30 output settles to the high voltage value, the output signal lower level will be at approximately the reference voltage, V_{REF} . However, before comparator output settles to its steady state value, the output signal can certainly drop below the reference voltage -- contrary to the assumptions made in the Office Action.

For the reasons set forth above, Applicants respectfully request removal of this rejection.

Section 102 Rejection

Claims 7 and 13-14 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,164,659 to Schultz et al. (hereinafter “Schultz”). The standard for “anticipation” is one of fairly strict identity. A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. MPEP § 2131. While Applicants do not contend Schultz discloses all limitations of claim 7, in the interest of expediting prosecution, Applicants have amended claim 7 to include the allowable subject matter from claim 8. In light of the amendment to claim 7, this rejection is rendered moot.

Section 103 Rejection

Claim 15, which is dependent from claim 7, was rejected under 35 U.S.C. § 103(a) as being unpatentable over Schultz. To establish a case of *prima facie* obviousness of a claimed invention, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. Moreover, there must be a reasonable expectation of success. Finally, the prior art references must teach or suggest all of the claim limitations. MPEP 2143. The Office Action admits that Schultz does not disclose an optical signal transmitter coupled to receive the output signal as set forth in claim 15. Nonetheless, the Office Action contends that such an apparatus would be an obvious design choice to one skilled in the art. Applicants disagree.

Nowhere in Schultz is there any reference or recommendation that the driver circuit taught therein can somehow be used to produce an output signal sent to an optical signal transmitter as presently claimed. Moreover, Applicants take exception to the general statement made in the Office Action that the claimed limitation is within one of knowledge in the art. As set forth in MPEP 2144.03, "if the Applicant traverses such an assertion, the Examiner must cite a reference in support of his or her position. Moreover, if the rejection is based on facts within the personal knowledge of the Examiner, support for the rejection must be provided in the form of an affidavit from the Examiner. In this manner, the affidavit can be subject to contradiction by the present Applicant." See MPEP 2144.03; *In re Seifried*, 407 F.2d. 897 (CCPA 1969); *In re Selmi*, 166 F.2d. 96 (CCPA 1946).

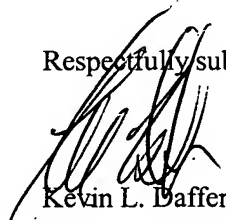
Although Applicants disagree with the obviousness allegations made in the Office Action, in the interest of expediting prosecution, Applicants have amended independent claim 7 to include allowable subject matter as described above. In light of the amendment to claim 7, this rejection is rendered moot as to dependent claim 15.

CONCLUSION

This response constitutes a complete response to all issues raised in the Office Action mailed October 8, 2003. In view of the remarks traversing rejections, Applicants assert that pending claims 1-5, 7, 9-11, 13-15 are in condition for allowance. If the Examiner has any questions, comments, or suggestions, the undersigned attorney earnestly requests a telephone conference.

No fees are required for filing this amendment; however, the Commissioner is authorized to charge any additional fees which may be required, or credit any overpayment, to Conley Rose, P.C. Deposit Account No. 03-2769/5298-07400.

Respectfully submitted,


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